

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Illinois Water Well and Pump Installation Contractor's License Act

March 18, 2021

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB) in collaboration with the Illinois Department of Financial and Professional Regulation (IDFPR), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Water Well and Pump Installation Contractor's License Act (225 ILCS 345), which is scheduled to sunset on January 1, 2022. The following recommendation is pursuant to this review:

The Water Well and Pump Installation Contractor's License Act (225 ILCS 345) should be continued with the following modifications to its existing statutory and administrative rule framework.

- IDPH has proposed changes to the Water Well Construction Code to redefine definitions and decrease the regulatory burden on contractors and the residents of Illinois

The examination of this Act considered the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”

In Illinois, as of September, 2020, The Illinois Department of Public Health (IDPH) currently licenses 504 individuals to construct, modify or abandon water wells in the State of Illinois. Records of the number of licensees are not maintained on a year by year basis. However; the Department provides testing opportunities for approximately 20 to 30 individuals on a yearly basis. Due to various reasons, the number of licensees does not vary appreciably. In addition, there are 102 counties in the State of Illinois, served by regional or local health department staff. These staff are trained in the construction and inspection of water wells.

The current licensure fee structure is as follows:

Type	Fee Amount
Water Well Contractor License Fee	\$50
Water Well Pump Installation Contractor Fee	\$50
Annual renewal of a contractor license or pump installation contractor	\$25
Fee for both licenses	\$80
Renewal fee for both licenses	\$35
Reinstatement fee for either before 3 years	\$10 plus lapsed renewal fees
Reinstatement fee for either after three years	\$150
Reinstatement fee for both under 3 years	\$15
Reinstatement fee for both after 3 years	\$175

Other states regulate the industry in a similar manner to Illinois. The Department maintains a list of states requirements that are equal to Illinois requirements for the purpose of examination qualification. The Department does not maintain a list of all other states and their requirements. Illinois issues a license based on experience and examination comparable to other states.

Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”

IDPH has a nondiscriminatory policy. Gender and race not a consideration. All persons meeting the minimum requirements to sit for the exam, are permitted to do so. There are women licensed, but the Department does not maintain a method to discern the criteria from the data.

Criteria (3) “The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters.”

Lack of regulation in the water well industry would have an adverse effect on public health. IDPH’s operation has not been impeded by existing statutes, procedures, and practices.

Criteria (4) “The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates.”

IDPH has proposed changes to the Water Well Construction Code to redefine definitions and decrease the

regulatory burden on contractors and the residents of Illinois. Title 77 part 920 has been submitted to the Department's Legal Section for review and advancement. Due to the Corona Virus, program staff are not aware of its standing as of August 2020.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."

Regulated entities under this Act are not required to provide feedback.

Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."

IDPH, as a member of the Water Well and Pump Installation Contractors Licensing Board and the Closed Loop Well Contractors Certification Board, brings concerns regarding the rules and their interpretation to the respective Board. The Department, with Board input, determines the proper response based on general regulatory authority and the public health best interest.

Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."

IDPH supports public interaction with the rule making process. Local Health Department staff provide information at County Fairs, Harvest Festivals and other community events. This follows Title 77 PART 615 LOCAL HEALTH PROTECTION GRANT CODE.

Criteria (8) "The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government."

IDPH receives adverse comments regarding the requirement for and the time frame to attain permits. The Department receives few complaints about the licensing requirements. The Department recognizes the urgency perceived by contractors and the public, but also recognizes the regulatory need to verify compliance with the regulations.

Formal complaints are received from local health departments by completing the "Request for Legal Action" form. This form documents the nature of the complaint, specific statute violated, supporting evidence and a timeline. Department staff respond to these complaints upon receipt, by verifying the evidence and specific violations claimed.

Criteria (9) "The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section."

IDPH recommends extending the act to further enhance and protect the groundwaters of the State thereby providing for the health and wellbeing of its residents.

Conclusion:

Lack of regulation in the water well industry would have an adverse effect on public health. Current laws protect public health by requiring the proper construction, operation and decommissioning of water wells. Water wells are permitted and inspected by the Illinois Department of Public Health or its designated agents and are installed by licensed contractors. Without enforcement of these requirements improperly constructed wells would result which pose a danger to the safety of the aquifers providing water to Illinois residents. There have been numerous instances in Illinois and other states of persons falling into improperly constructed wells causing injury and death. Wildlife and chemicals from farming and industry further endanger the quality of water due to an improperly constructed well. The availability of a safe and sanitary water supply is imperative to the welfare of Illinois residents. The regulations regarding the licensing of individuals to install water wells are designed to prevent individuals without proper knowledge and training from installing faulty water wells leading to the contamination of the aquifers supplying water to all residents of Illinois.